

House of Representatives

Report of Proceedings

Hearing held before

COMMITTEE ON MERCHANT MARINE AND FISHERIES

MARKUP SESSION

H. R. 6401

H. R. 4297

H. R. 4740

H. J. Res 388

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Washington, D. C.

May 11, 1977

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MARKUP SESSION

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WEDNESDAY, MAY 11, 1977

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House of Representatives,

Committee on Merchant Marine and Fisheries,

Washington, D. C.

The Committee met, pursuant to recess, at 11:04 a.m. in Room 1334 Longworth House Office Building, Hon. John M. Murphy (Chairman of the Committee), presiding.

Present: Representatives Murphy, Jones, Leggett, Biaggi, Anderson, de la Garza, Metcalfe, Breaux, de Luco, Hubbard, Bonker, Patterson, Zeferetti, Hughes, Bonior, Akaka, Ruppe, McCloskey, Treen, Pritchard, Young, Bauman, Lent, Emery, Dornan, Evans, and Tribble, Jr.

Staff present: Carl L. Perian, Chief of Staff, Ernest J. Corrado, Counsel; Ned P. Everett, Professional Staff Member; Robert D. Thornton, Counsel; W. Patrick Morris, Deputy Minority Counsel; Ronald K. Losch, Minority Counsel; George J. Mannina,

1 Jr., Professional Staff, Minority; Grant Wayne Smith, Pro-
2 fessional staff, Frances Still, Chief Clerk

3 - - -

4 The Chairman. The Committee will come to order.

5 Rule VIII(3) of the Rules of the Democratic Caucus states
6 "All legislation and other matters referred to a Committee
7 shall be referred to the Subcommittee on Appropriate Jurisdic-
8 tion within two weeks unless, by majority vote of the Demo-
9 cratic members of the full Committee, consideration is to be by
10 the full Committee."

11 In light of this rule, I would ask unanimous consent that
12 H. R. 6970, legislation dealing with the tuna-porpoise problem,
13 be handled by the full Committee without referral to the Sub-
14 committee.

15 I have already scheduled a hearing on these bills dealing
16 with the Marine Mammal Protection Act for Friday, May 13, 1977.
17 That sounds like an appropriate day for a piece of legislation
18 like that.

19 The reason for handling this legislation in the full
20 Committee is due to the complexity and controversy of this
21 issue, and the necessity to expedite such legislation. It
22 would be much better to handle this legislation in full
23 Committee.

24 I expect to go to a full Committee markup on Tuesday of
25 next week, go to the Rules Committee and get the Floor right

1 after they finish two important pieces of legislation the
2 Speaker says must go first, and that is the Clean Air Act
3 Amendments and the other is Voter Registration.

4 After having spent three days in San Diego this weekend
5 and having different meetings with the Maritime Administrator,
6 where he has already recommended the transferral of foreign
7 flags of our American tuna fleet, we just cannot wait any
8 longer.

9 I think after some of the assurances that are given this
10 fleet, this expedited procedure will be very effective; and I
11 would ask unanimous consent that this, of course, be approved.

12 Mr. Leggett. I so move, Mr. Chairman.

13 The Chairman. Is there objection?

14 The Chair hears none.

15 Mr. Biaggi?

16 Mr. Biaggi. Mr. Chairman, I ask unanimous consent that
17 the Subcommittee on Coast Guard and Navigation be discharged
18 from further consideration of H. R. 6401, a bill to authorize
19 appropriations for the administration of the Deepwater Port
20 Act of 1974, and that the Committee take up the bill for con-
21 sideration at this time.

22 The Chairman. Objections?

23 Mr. Ruppe. Reserving the right to object -- and I shall
24 not object -- has the Department indicated how the progress
25 in negotiation would be moved and sea dock groups are coming

1 along, I understand that Secretary Coleman, just before leaving
2 office, was going to issue a license, however, covered by a
3 number of conditions; and I understand that the companies have
4 objected rather strenuously to some of the conditions. I am
5 curious as to how those negotiations are coming along.

6 Mr. Biaggi. They have until August 1st.

7 Mr. Breaux. Will the gentleman yield?

8 Maybe as a matter of explanation -- because my state is
9 involved in the application; they more or less have the terms
10 of the license that the Secretary has now said they should
11 meet to grant a license -- the organization is currently con-
12 sidering those provisions and have until -- what? -- six months
13 -- until August 1st -- to accept those terms and conditions;
14 and right now they are having their stockholders look at the
15 conditions to see if they are acceptable.

16 Mr. Ruppe. Is there a feeling that there would be -- a
17 feeling among the members that they were not going to reach
18 agreement?

19 I thought perhaps it might be advisable to get the Depart-
20 ment and see what those views are on the negotiations and when
21 they feel they can conclude an arrangement both satisfactory to
22 the government and the organizations?

23 Mr. Breaux. The gentleman makes a good point.

24 I think if they do say that they cannot live with those
25 negotiations, that they come back here and see whether they are

1 unreasonable or not.

2 Mr. Ruppe. Thank you, Mr. Chairman.

3 Mr. Biaggi. Mr. Chairman, the Deepwater Port Act of 1974
4 was enacted following extensive hearings in this Committee, as
5 well as consideration in the House Committee on Public Works
6 and Transportation.

7 It has now been in place for more than two years. While
8 no construction has yet been initiated for deepwater ports,
9 two licenses were issued for such construction in January of
10 this year, the licenses to be contingent upon the acceptance
11 of certain restrictions imposed by the terms of the license.
12 The applicants have until August 1, 1977, to accept those
13 conditions.

14 In the meantime, the authorization of appropriations will
15 terminate at the end of the current fiscal year, and it is
16 therefore necessary to take action to extend that authorization
17 if the Deepwater Port Office in the Department of Transporta-
18 tion is to continue.

19 Prior to leaving office in January, Secretary Coleman
20 forwarded proposed legislation which would extend such author-
21 ization on an open-ended basis.

22 Rather than introducing that proposal, Chairman Johnson
23 of the Committee on Public Works and Transportation introduced
24 H. R. 6401, which would authorize appropriations for the fiscal
25 years 1978, 1979, and 1980 at a level not to exceed two and one-

1 half million dollars per fiscal year.

2 The bill was favorably considered by the Subcommittee on
3 Water Resources and was ordered reported to the House by the
4 full Committee, with a technical amendment, on Tuesday, May 10,
5 1977.

6 Since the bill was referred to this Committee jointly
7 with the Public Works and Transportation Committee, it is
8 necessary that we also take action.

9 I move that the Chairman of the Committee be authorized
10 to address a letter to the Chairman of the Public Works and
11 Transportation Committee concurring in the action of that
12 Committee, the letter to be included as part of the report filed
13 in the House by the Committee on Public Works and Transportation
14 later this week.

15 The Chairman. Is there objection to the gentleman from
16 New York?

17 The Chair hears none; and it is so ordered.

18 On May 5, the Committee deferred further consideration of
19 H. R. 4297. Because of some uncertainty which arose with
20 respect to the meaning of an amendment offered by the gentleman
21 from New Jersey, Mr. Hughes, and adopted by the Oceanography
22 Subcommittee, the members and the staff have been reviewing the
23 law and certain amendments dealing with the amendments which
24 have been administered by the Oceanography Subcommittee.

25 At the time time that we deferred this matter, an amendment

1 by Mr. Breaux was being considered. Mr. Breaux's amendment
2 would delete the Hughes language adopted by the Subcommittee.

3 I would ask the gentleman from New Jersey whether he now
4 has substitute language to propose or whether he wishes to
5 retain the amendment adopted in the Subcommittee.

6 Mr. Hughes. Mr. Chairman, if I may, I do have an amend-
7 ment in the nature of a substitute, to substitute the language.
8 That is at the desk.

9 I believe it has been distributed to the members.

10 The Chairman. Will the Clerk report the substitute?

11 Mr. Morris. The substitute offered by Mr. Hughes.

12 "Strike all that appears on page 2, after line 14, and
13 insert in lieu thereof:

14 "Sec. 4. (a) The Administrator of the Environmental Pro-
15 tection Agency shall end the ocean dumping of sewage sludge as
16 soon as possible after the date of enactment of this section,
17 but in no case may the Administrator issue any permit, or any
18 renewal thereof (under Title I of the Marine Protection, Re-
19 search, and Sanctuaries Act of 1972), which authorizes any such
20 dumping after December 31, 1981.

21 "(b) For purposes of this section, the term 'sewage
22 sludge' means any solid-semisolid, or liquid waste generated
23 by a municipal wastewater treatment plant the ocean dumping of
24 which may unreasonably degrade or endanger human health, wel-
25 fare, amenities, or the marine environment, ecological systems,

1 or economic potentialities."

2 The Chairman. The gentleman from New Jersey is recognized
3 for five minutes.

4 Mr. Hughes. The amendment I am offering is to make clear
5 that the ocean dumping of sewage sludge must be ended as soon
6 as possible. Under no event may it be continued after 1981.

7 It is identical in purpose to an amendment that was
8 approved in the Subcommittee. The language has, however, been
9 refined and improved, reflects some of the valid concerns that
10 were expressed by this Committee.

11 There are two major changes:

12 The first states that ocean dumping of sewage sludge must
13 be ended as soon as possible. That is the present intent of
14 the 1972 law. The purpose of that statement is to make clear
15 that we are not condoning ocean dumping, dumping of sludge,
16 through 1981, where it is harmful.

17 This will put the force of law behind the EPA's effort to
18 curtail this practice sooner, if possible, and eliminate it
19 entirely after 1981.

20 The second change adds a definition of 'sewage sludge'
21 which includes only that sludge which is harmful. Accordingly,
22 the dumping of sludge which is not harmful could be continued
23 after 1981.

24 I have no delusions about the challenge we face in attempt-
25 ing to cut off harmful ocean dumping by 1981. It would not be

1 easy.

2 But we must not have any illusions, either, about the
3 damage that sludge dumping is doing to our oceans. At best,
4 it is a necessary evil. Beyond that, it is doing serious
5 damage to all the qualities of the ocean that Congress sought
6 to protect by enacting the Ocean Dumping law in the first place.

7 So long as ocean dumping remains the cheapest and most
8 convenient means of disposing of sludge, there will remain
9 tremendous pressure to continue dumping.

10 EPA will continue to waffle, in my judgment. The un-
11 certainty in existing law will continue to invite litigation.
12 As more and more sludge is produced by new sewage plants, the
13 pressure to continue dumping will increase. That is why it is
14 so important for us to begin the process of phasing out harm-
15 ful ocean dumping now, while we still have some time to develop
16 alternatives.

17 The municipalities that are doing the dumping must be put
18 on notice now that they must begin a serious effort to alterna-
19 tives.

20 The area in the mid-Atlantic is becoming a cesspool, as my
21 colleagues well know. It is beginning to affect New York, New
22 Jersey, Delaware and Maryland.

23 I have the General Accounting Office report of January of
24 1977, and the GAO in its report makes a number of observations
25 which are frightening.

1 The 26 municipal permit holders the GAO says are in the
2 New York-New Jersey area were dumping sewage sludge containing
3 cadmium or mercury that exceeded by more than 100 times the
4 safety standards set by EPA. Suggested in the EPA statement,
5 because the amount being dumped exceeds safety levels, EPA is
6 concerned that mercury and Cadmium are accumulating in the
7 tissues of fish and shellfish

8 Less than one year after the Philadelphia dumpsite was
9 moved in 1973, clams and scallops taken from the area surround-
10 ing the new site had accumulated high levels of cadmium. EPA
11 reported that the sewage sludge dumped in 1974 in the Atlantic
12 contained about 24 tons of cadmium and that sludge dumped in the
13 New York Bight alone contained about two tons of mercury.

14 One of the things the GAO report brings out is that in
15 addition to the environmental concerns, EPA has been receptive
16 to also navigation concerns; the Coast Guard expressed some
17 concern about navigation in the New York Bight and, because of
18 that, the rate of discharge in the New York Bight is faster than
19 environmentally acceptable levels, because the Coast Guard
20 believes, so EPA says, that a slower rate of dumping might
21 cause a safety hazard to navigation, since the dumpsites in this
22 area are in active shipping lanes approaching New York Harbor.

23 Last summer we had an algae bloom off our beaches and it
24 closed our beaches down for weeks, and people were scared to
25 eat seafood in the area.

1 The Chairman. New York beaches also.

2 But we never found out what it was.

3 Mr. Hughes. I think most of the scientists agree, Mr.
4 Chairman, that at least the sludge provides the nutrients that
5 exacerbate the problem that exists there because of the oxygen
6 levels; but be that as it may, it seems that the scientific
7 community is in doubt, but all my amendment is doing is re-
8 inforcing what the EPA has done by regulation, nothing more.

9 We have heard the EPA indicate that they are going to
10 comply with their -- the lead time that they have set, 1981.

11 The EPA has done an exhaustive study of alternatives and
12 they have determined that we can phase out ocean dumping by
13 1981. That is harmful ocean dumping.

14 Now, what is happening is that some of these municipal-
15 ities, because ocean dumping only costs \$2.00 to \$6.00 a ton,
16 and land-based alternatives cost anywhere between \$100 to \$150
17 per ton, they are taking EPA into court.

18 Federal judges are putting the pressure on EPA to render
19 the law more flexible and all my amendment is trying to do is
20 to try to reinforce what EPA has set as a deadline and what
21 EPA says is achievable. That is all we are trying to do. And
22 if the '72 Act means anything, then I think that we have to
23 serve notice on these municipalities that continue to dump in
24 our ocean and make it a cesspool that we mean what we say and
25 that '81 is the last date.

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1 Now, the EPA has set up an interim permit system which
2 really is in question; and this particular amendment will
3 recognize the system that is set up with interim permits and
4 indicate, we understand, that you cannot phase out all unreason-
5 able harmful dumping even though that would appear to be the
6 mandate of the '72 Act; and I think that most people recognize
7 and most people from EPA will agree in a conversation with them
8 outside the hearing room that they are permitting unreasonably
9 harmful dumping because they have no alternative.

10 I recognize that we are going to have to permit that at
11 least in the foreseeable future. But it seems to me that we
12 have to start somewhere and we have to set a deadline of 1981
13 and this amendment does.

end 1

14 Mr. Evans. Will the gentleman yield?

15 Mr. Hughes. Yes.

16 Mr. Evans. I think my colleague from New Jersey and I
17 support very strongly your amendment. I think it is important
18 to take a look at the track record of EPA in areas like Camden,
19 Philadelphia, et cetera, and look at some of the waffling that
20 has been going on and to recognize that there are a number of
21 us here, as I have said before, the use the beaches of Delaware
22 and New Jersey; they call Rehobeth the summer capital because
23 there are a number of Congressmen who reside there in the
24 summer, perhaps in the winter.

25 We hope more of them will come see us.

1 But we hope you come see us when we have some good beaches
2 to enjoy and we have some clean water and you cannot do that
3 if we are going to continue to waffle on situations like this.

4 All we are doing is setting a date certain beyond which
5 there will be no harmful dumping; and I call your attention to
6 the words "unreasonably degrade" or "endanger human health,
7 welfare, amenities, or the marine environment." I think that
8 is important; and I think it is extremely important to take a
9 look at that as soon as possible, because this does not mean
10 that all ocean dumping will be postponed until 1981, but it
11 means that we will do everything possible prior to that date;
12 and the bill sponsored by the gentleman from New Jersey, Mr.
13 Forsythe, will give added incentive to do that.

14 Now, Mr. Breaux, from Louisiana says that we are going
15 to hold field hearings on this problem and I am not opposed
16 to holding field hearings on the problem, but I do think that
17 it is important to set a date, make it the consensus of this
18 Congress, codify into law the good intentions of the EPA, and
19 then go about solving the problem.

20 Thank you.

21 Mr. Hughes. Mr. Chairman, I know that my time has
22 expired --

23 The Chairman. Mr. Hughes is recognized for an additional
24 five minutes.

25 Mr. Hughes -- but it is important.

1 We are not just talking about multi-billion-dollar tourist
2 economies, and that is our second largest industry; we are also
3 talking about an absolute fear that has just penetrated my
4 seashore community.

5 My seashore communities are not really afraid of develop-
6 ing the Outer Continental Shelf because they recognize that we
7 do have to make major commitments to try to meet the energy
8 needs and my seashore communities by and large want to move
9 ahead in the development of the Outer Continental Shelf off of
10 my beaches; because we recognize that even though there is some
11 risk involved, that as long as we put in place the kind of
12 protections that we need, that we are willing to move ahead
13 and make our commitments to the national effort.

14 But we are talking about another problem that we do have
15 some control over and that really does threaten our very way
16 of life; and that is ocea dumping.

17 I mentioned the seafood problem.

18 Last summer, in the restaurants, there was a decided drop
19 in seafood sales because people were afraid of eating the sea-
20 food for fear it came from the areas off of our beaches. Some
21 of the beaches, as my colleague from New York indicated, were
22 closed down in New York and we had beaches closed down in New
23 Jersey.

24 But more important, I think, is the fact that it does
25 present tremendous risks to the health, to the safety of the

1 people of our area, and I am not setting an arbitrary cutoff
2 date that I picked out of the air. It is EPA's deadline; and
3 one of the things that municipalities are saying time and time
4 again is that EPA does have some flexibility.

5 The one argument that they make when they appear in
6 Federal District Court is that EPA does have some flexibility
7 to grant us some additional time.

8 Mr. Ruppe. Will you yield?

9 Are you saying that if we pass this amendment of yours,
10 it does put a tremendous amount of pressure on EPA and serves
11 as a signal to the affected communities that they have to get
12 on the ball and start doing something about this problem, the
13 quicker the better; we are giving them a deadline, until 1981,
14 to do the job?

15 You have got some latitude, but our intention is clear in
16 this regard.

17 Mr. Hughes. That is exactly what it does.

18 Mr. Bauman. I would like to make the same point I made
19 last week; that there can be only one reason why the EPA is
20 opposing your amendment, because they do not intend to abide
21 by the 1981 deadline. They themselves, as the gentleman said,
22 they set for the cutoff. The only way they can oppose this
23 is because they are waffling and again backing down from a
24 statement that has been made many times now by the Administra-
25 tion.

1 I am really surprised that the gentleman from Louisiana, a
2 very capable member of the Committee, would be carrying sludge
3 for the EPA simply because we have an intervening legislation,
4 that he would take this position now, because I know in a
5 different time and different place he would be on our side.

6 The Chairman. The gentleman from New Jersey has the floor.

7 Mr. Hughes. I thank my colleague for his contribution.

8 I do find my colleague from Louisiana a very reasonable guy
9 and I suspect that if my colleague represented the Second
10 District of New Jersey or the Sixth District of New Jersey, he
11 would be making the same effort that I am making at the present
12 time. It is a question of whose ox is being gored at a given
13 time.

14 I think most of the members of this Committee, even though
15 they perhaps do not live along the mid-Atlantic, can understand
16 the potential for harm in ocean dumping, not only can do but is
17 doing in an area. It is not a matter of speculation at this
18 point.

19 We are exceeding the safety records by up to 100 times,
20 safety records set by EPA; and, of course, any time any organiza-
21 tion comes along that puts the pressure on, once again we find,
22 once again we find extensions are being granted.

23 The Coast Guard expressed concern about navigation and
24 because of that expression of concern they are permitting the
25 dumping at rates which exceed the safety standards.

1 So what we have to do, I think, is serve notice on the
2 polluters that the cheap way is no longer going to be the
3 acceptable way; and get your house in order; let us make the
4 necessary commitments to resource recovery and other facilities
5 that are needed and let us get on with the business of dis-
6 posing of wastes in the right way.

7 The Chairman. The time of the gentleman has expired.

8 Mr. Biaggi?

9 Mr. Biaggi. In light of the time constraints and the
10 other bills to be taken under consideration, I would like to
11 suggest that we limit debate on this to some 20 minutes.

12 Mr. Bauman. Ten minutes.

13 Mr. Biaggi. I would limit it to five minues -- all right,
14 ten minutes.

15 The Chairman. I think we have several members asking that
16 all debate on this amendment cease in 15 minutes.

17 Mr. Breaux. Five minutes.

18 The Chairman. Is there objection?

19 Mr. Young. Reserving the right to object, Mr. Chairman,
20 ten minutes is plenty.

21 The Chairman. The gentleman from California, and the
22 gentleman from Louisiana, and also the Chair, would like to
23 make statements.

24 Mr. Young. In light of the Chairman wanting to make a
25 statement, we will make it 15 minutes.

1 The Chairman. Without objection, the debate will end in
2 15 minutes.

3 The gentleman from California.

4 Mr. Anderson. Those of us on the West Coast are sympathetic
5 to the problems of those on the East Coast and we want to do
6 everything we can to help you, Mr. Hughes, and Mr. Evans. But
7 I know the City of Los Angeles has asked for differentiation
8 between sludge as it applies to the Continental Shelf that goes
9 out several miles and the sharp dropoff on the West Coast. I
10 know the City of Los Angeles has been asking that EPA not re-
11 quire that they have a secondary treatment on their sewage
12 treatment because they do drop out into rather sharp falloff
13 and EPA has had a problem, because they said there shall be no
14 more ocean dumping by time certain.

15 Mr. Pritchard. Will the gentleman yield?

16 Do not you believe the wording "unreasonably degrade or
17 endanger human health" -- I do not believe the type of dumping
18 you are talking about, and also that they are talking about, in
19 my area, contradicts this amendment.

20 Mr. Anderson. Then I think we ought to find out what you
21 mean by "unreasonably degrade or endanger human health, welfare,
22 amenities, or the marine environment, ecological systems, or
23 economic potentialities."

24 I do not understand what that means, and I was going to
25 ask the counsel to describe just what the part of the amendment

1 does.

2 Mr. Chairman, could the counsel describe for me what some
3 of this amendment means here when you say "unreasonably degrade
4 or endanger human health, welfare, amenities, or the marine
5 environment, ecological systems or economic potentialities"?

6 The Chairman. Counsel may respond.

7 Mr. Morris. That was made by the Administrator of EPA and
8 some of the criteria they use are toxicity levels of cadmium,
9 mercury, PCB's.

10 Mr. Anderson. That would endanger human elements?

11 Mr. Morris. That would endanger human elements.

12 Mr. Anderson. I am concerned with the words "welfare,
13 amenities" --

14 Mr. Morris. To my knowledge, they consider those in such
15 cases as Long Island Sound or beaches would have to be closed,
16 such as occurred last summer where a community's economic
17 potentialities were affected.

18 These lost revenues from potential tourism.

19 Mr. Anderson. Would not that be because of endangered
20 human health? It seems to me we have written a lot of things
21 in there that are rather difficult to understand.

22 Mr. Morris. It could fall under either category, I would
23 think, but the main rationalization that EPA uses is upon the
24 endangering of human health.

25 Mr. Anderson. I could accept the unreasonably degrade or

1 endanger human health" -- when you get into the "amenities,
2 economic potentialities" --

3 Mr. Hughes. If the gentleman will yield.

4 There are, conceivably, situations where perhaps the
5 material that was floating in the waterway might not endanger
6 human health but might be so unsightly that people would not
7 go to that particular area; they would bathe somewhere else.
8 That is how I read the wording.

9 Mr. Anderson. That would cover what, the economic
10 potentialities, or the amenities, or the welfare?

11 Mr. Hughes. That could potentially cover the economic
12 potentialities.

13 For instance, off the Jersey beaches last year there was
14 an algae bloom that -- from which terrible stench originated
15 and there was not any finding that that particularly posed a
16 hazard to health; but it certainly would be an area where you
17 would not want to swim.

18 Mr. Anderson. I am not clear, but apparently I cannot
19 get an answer to what they mean.

20 Mr. Pritchard. Mr. Chairman, I am one who has quite a bit
21 of sympathy for the position of Mr. Hughes and the others who
22 are fighting this, who have this problem; and the only thing is,
23 you get into amenities and economic potentialities; that is a
24 little more than I am willing to go and if you gentlemen would
25 back off a little, why I am willing to support this; because I

1 think you are going in the right direction.

2 Mr. Hughes. If the gentleman will yield, that is part of
3 the original legislation.

4 Mr. Breaux. Yes; I would agree that his amendment tracks
5 original terms used in the existing language.

6 Mr. Hughes. If the gentleman would yield just further,
7 the gentleman may remember when we met last week the one ques-
8 tion was the ambiguity in the amendment that was offered and
9 I concede that perhaps it could be interpreted in a way that
10 was not intended; and the amendment I have used is an amendment
11 that was drafted by counsel; so it makes abundantly clear that
12 all I am doing is reinforcing what the EPA has already done
13 administratively and indicated by way of lead time is achiev-
14 able. That is all.

15 The Chairman. Mr. Bonker?

16 Mr. Bonker. It should be noted that Representative AuCoin
17 who is not here, had originally questioned the Hughes Amendment
18 but the changes you have offered today meet the objections that
19 Mr. AuCoin had and more definitive language we have now on what
20 constitutes sewer sludge is acceptable to him and he fully
21 supports the amendment, as do I.

22 Mr. Hughes. I thank my colleague.

23 The Chairman. The gentleman from Louisiana.

24 Mr. Breaux. Mr. Chairman and members of the Committee, I
25 know that after my colleague from Maryland's statement, I feel

1 like the President of Roto Rooter.

2 This is one of the things that we have to look at with
3 reason and good common sense rather than emotion. I have no
4 qualms with the goals that the gentleman from New Jersey is
5 trying to set up. Nobody can disagree with the proposition
6 and say that we are going to do anything that might degrade
7 the environment after 1981. That is an applied goal.

8 The reason I oppose this amendment, as does the Admin-
9 istration, as does EPA, with the communication that you have in
10 your folders today, pointing --

11 The Chairman. The Chair recognizes the presence of a
12 quorum.

13 Mr. Breaux. -- pointing out why they oppose the amendment,
14 I think, is very sound and very sane legislation.

15 We should not make a major policy change such as we are
16 doing here today if we adopt his amendment without having hear-
17 ings on the subject.

18 We are going to find ourselves being put in the exact same
19 sort of circumstances that we have in the past on the tuna-
20 porpoise legislation, which right now we find is totally un-
21 enforceable because of legislative direction in mandating some-
22 thing that we cannot reach.

23 If we are going to make the major policy changes -- and I
24 am not arguing that maybe we should make those changes -- but
25 before we do, we ought to bring in the people who are going to

1 have to enforce this law and say whether physically it is
2 possible, whether financially it is possible.

3 EPA points out in the letter in your folder that we are
4 depending on a lot of things happening before this goal can be
5 reached.

6 But until we set a permanent cutoff date, we should find
7 out whether it is possible or not. Of course, they prefer the
8 language in the regulations because it gives them flexibility
9 to say if it cannot flexibly be done, we are going to grant
10 them a permit to put it in.

11 I say to you gentlemen who have these problems, what is
12 going to happen is, if you do not give them some flexibility,
13 you are going to have it dumped in the streets of these
14 communities, and I do not propose to have it dumped on the
15 streets; I would rather have it dumped on an interim permit,
16 in the ocean.

17 I have given all the members of the Committee -- that as
18 soon as we finish the authorization bill, that we are going
19 to have field hearings on it; we are going to bring in EPA and
20 we are going to bring in the best scientific knowledge that is
21 available, to tell us if what we are doing is feasible and, if
22 it is, we will adopt that language.

23 But we make a heck of a mistake as legislators if we
24 operate only on the motion.

25 It is going to be difficult for somebody to be responsible

1 and say, no, this is not the right step at this time, but as a
2 legislature, I think that is correct.

3 So I just urge you to be responsible. It is going to be
4 difficult, but I think it is the right step and you have a
5 commitment from the Chairman of the full Committee to sponsor
6 legislation, along with Mr. Forsythe, along with the Subcommittee
7 Chairman, myself, to come up with a program that I think is the
8 answer to all of our problems.

9 Mr. Bauman. Would the gentleman yield?

10 The gentleman from New Jersey did not set the magical date
11 of 1981. The very people that you called in for your hearings
12 did.

13 Mr. Breaux. Let me comment on that.

14 The reason why it is in the regulations, because when you
15 get to 1981, it is physically impossible to reach that goal;
16 they will not be able to change it. I am not arguing; that is
17 why it is in there. They want to have the authority, by the
18 time we get to 1981. If we do not have the sewage authority
19 treatment in place.

20 Mr. Bauman. Without this amendment, we will never have
21 that.

22 Mr. Breaux. You talk to the people in Philadelphia who
23 got fined for not filing the reports with EPA. We have a
24 different story.

25 If you talked to the people in Camden, absolutely on an

1 interim permit, they had to go to the court to say, listen, we
2 have to put it in the ocean or in the street, the court had to
3 overrule EPA's decision just to keep them going, as we said,
4 and I do not want to be in a position of telling them to put
5 it in the streets. They need the flexibility.

6 The Chairman. The time of the gentleman has expired.

7 In order to conclude debate, I would like to point out
8 a few things that the Committee has done in this area.

9 I felt 1981 was the date certain that ocean dumping
10 should stop, not just sewage sludge. We went to New York and
11 we had hearings in that city where the tremendous industries
12 and probably the primary sludge exceeds by many factors the
13 amount than any other place.

14 We found that the Environmental Protection Administration
15 and the Corps of Engineers had not decreased at all in the past
16 six years from the date of the hearing the number of permits
17 that we were issuing because we had announced months in advance
18 we were coming in, they finally tapered off the number of per-
19 mits that they issued, and then they added another requirement
20 and that was, they must show when they requested a permit,
21 what their alternate type of dumping was going to be.

22 It was clear from those hearings that if 1981 was the cut-
23 off date on the dumping of primary treatment, they were going
24 to bypass the primary treatment plants and raw sewage was
25 going to go back into the rivers, go back out into the harbors,

1 and we were going to be five times worse than we would be with
2 the specified dump sites of primary dumping. That is why Mr.
3 Forsythe introduced his legislation. That is why I have
4 supported it and Mr. Breaux is going right ahead with hearings
5 in that area.

6 I would agree with the substitute of the gentleman whole-
7 heartedly had I thought it physically possible not to create a
8 worse problem in this area by the very type of hard position.

9 I believe in being hard and tough with bureaucrats but
10 where the result would be much greater impact on the environ-
11 ment, I am constrained to vote against it.

12 Mr. Hughes. Would my colleague yield?

13 The Chairman. Yes.

14 Mr. Hughes. I understand what my colleague is saying and
15 I also have conducted seminars and meetings throughout my
16 district where we brought industry officials in, along with
17 some of the biggest polluters to try to determine whether or
18 not 1981 gives us sufficient lead time and most of the experts
19 that I have talked to -- and again there is some division with-
20 in the ranks -- agree that 1981 gives us sufficient lead time
21 to do so.

22 Now, the problem is the polluter does not want to move it
23 out beyond ten miles because it costs more money. One of the
24 provisions of the Act is that EPA take into account dumping
25 perhaps beyond the Continental Shelf. The polluters do not want

1 to move it out that far because it is going to cost too much
2 money. It becomes an economic decision, primarily; and it is
3 this particular amendment that is targeted in.

4 I am trying to back the EPA in its definition to phase it
5 out.

6 The Chairman. The time of all of the gentlemen has
7 expired.

8 The question is on the substitute of the gentleman from
9 New Jersey.

10 Those in favor of the substitute, signify by saying "aye."

11 (Chorus of "aye.")

12 The Chairman. Opposed, "no."

13 (Chorus of "no.")

14 The Chairman. In the opinion of the Chair, the "ayes"
15 have it.

16 Mr. Breaux. Record vote, Mr. Chairman.

17 The Chairman. The gentleman from Louisiana asks a roll
18 call vote.

19 Those in favor of a roll call vote will raise their hands.

20 (Show of hands.)

21 The Chairman. A sufficient number; and the Clerk will call
22 the roll.

23 Mr. Treen. For the benefit of those who interrupted the
24 OCS hearing and just came over here, could you tell us what
25 this is about?

1 The Chairman. The gentleman from New Jersey has set a date
2 certain of 1981 to terminate all sewage sludge dumping. It is
3 on the substitute.

4 The Clerk will call the roll.

5 Ms. Still. Chairman Murphy.

6 The Chairman. No.

7 Ms. Still. Chairman Murphy votes no.

8 Mr. Ashley.

9 Mr. Evans. By proxy --

10 The Chairman. The proxies will be called at the end of the
11 roll call vote.

12 Ms. Still. Mr. Dingell.

13 (No response.)

14 Ms. Still. Mr. Rogers?

15 (No response.)

16 Ms. Still. Mr. Jones.

17 Mr. Jones. No.

18 Ms. Still. Mr. Jones votes no.

19 Mr. Leggett.

20 Mr. Leggett. Aye.

21 Ms. Still. Mr. Leggett votes "aye."

22 Mr. Biaggi.

23 Mr. Biaggi. No.

24 Ms. Still. Mr. Biaggi votes no.

25 Mr. Anderson?

1 Mr. Anderson. No.
2 Ms. Still. Mr. Anderson votes no.
3 Mr. De la Garza.
4 Mr. de la Garza. No.
5 Ms. Still. Mr. de la Garza votes no.
6 Mr. Metcalfe.
7 Mr. Metcalfe. No.
8 Ms. Still. Mr. Metcalfe votes no.
9 Mr. Breaux.
10 Mr. Breaux. No.
11 Ms. Still. Mr. Breaux votes no.
12 Mr. Rooney?
13 (No response.)
14 Ms. Still. Mr. Ginn.
15 Mr. Ginn. No.
16 Ms. Still. Mr. Ginn votes no.
17 Mr. Studds.
18 Mr. Studds. Aye.
19 Ms. Still. Mr. Studds votes aye.
20 Mr. Bowen?
21 (No response.)
22 Ms. Still. Mr. Eilberg?
23 (No response.)
24 Ms. Still. Mr. de Luco.
25 Mr. de Luco. Aye.

1 Ms. Still. Mr. de Luco votes aye.
2 Mr. Hubbard?
3 Mr. Hubbard. Aye.
4 Ms. Still. Mr. Hubbard votes aye.
5 Mr. Bonker.
6 Mr. Bonker. Aye.
7 Ms. Still. Mr. Bonker votes aye.
8 Mr. AuCoin.
9 (No response.)
10 Ms. Still. Mr. D'Amours.
11 (No response.)
12 Ms. Still. Mr. Patterson.
13 (No response.)
14 Ms. Still. Mr. Zeferetti.
15 Mr. Zeferetti. Aye.
16 Ms. Still. Mr. Zeferetti votes aye.
17 Mr. Oberstar.
18 (No response.)
19 Ms. Still. Mr. Hughes.
20 Mr. Hughes. Aye.
21 Ms. Still. Mr. Hughes votes aye.
22 Ms. Mikulski.
23 Ms. Mikulski. Aye.
24 Ms. Still. Ms. Mikulski votes aye.
25 Mr. Bonior.

1 Mr. Bonior. Aye.
2 Ms. Still. Mr. Bonior votes aye.
3 Mr. Akaka.
4 (No response.)
5 Ms. Still. Mr. Ruppe.
6 Mr. Ruppe. Votes aye.
7 Ms. Still. Mr. Ruppe votes aye.
8 Mr. McCloskey.
9 (No response.)
10 Ms. Still. Mr. Snyder.
11 (No response.)
12 Ms. Still. Mr. Forsythe.
13 (No response.)
14 Ms. Still. Mr. Treen.
15 Mr. Treen. No.
16 Ms. Still. Mr. Treen votes no.
17 Mr. Pritchard.
18 Mr. Pritchard. Aye.
19 Ms. Still. Mr. Pritchard votes aye.
20 Mr. Young of Alaska.
21 Mr. Young. Aye.
22 Ms. Still. Mr. Young votes aye.
23 Mr. Bauman.
24 Mr. Bauman. Aye.
25 Ms. Still. Mr. Bauman votes aye.

1 Mr. Lent.
2 Mr. Lent. Aye.
3 Ms. Still. Mr. Lent votes aye.
4 Mr. Emery.
5 (No response.)
6 Ms. Still. Mr. Dornan.
7 (No response.)
8 Ms. Still. Mr. Evans.
9 Mr. Evans. Aye.
10 Ms. Still. Mr. Evans votes aye.
11 Mr. Tribble.
12 Mr. Tribble. Aye.
13 Ms. Still. Mr. Tribble votes aye.
14 The Chairman. The Clerk will call the proxies.
15 Ms. Still. Mr. AuCoin to Mr. Hughes.
16 Mr. Hughes. Mr. AuCoin votes aye.
17 Ms. Still. Mr. AuCoin votes aye by proxy.
18 Mr. D'Amours to Mr. Hughes.
19 Mr. Hughes. Mr. D'Amours votes aye.
20 Mr. Ruppe. Is Mr. Emery recorded?
21 Mr. Emery votes aye by proxy.
22 Ms. Still. Mr. D'Amours votes aye?
23 Mr. Hughes. Mr. D'Amours votes aye by proxy.
24 Ms. Still. All right.
25 Is there some question as to Mr. Emery?

1 Mr. Ruppe. Mr. Emery votes aye by proxy.
2 Ms. Still. Mr. Emery votes aye by proxy.
3 Mr. Oberstar to Mr. Murphy.
4 The Chairman. Votes no.
5 Ms. Still. Mr. Oberstar votes no.
6 Mr. Eilberg to Mr. Murphy.
7 The Chairman. Votes no.
8 Ms. Still. Mr. Eilberg votes no.
9 Mr. Bowen to Chairman Murphy.
10 The Chairman. Votes no.
11 Ms. Still. Mr. Bowen votes no.
12 Mr. Rogers to Mr. Murphy, with a stipulation on H. R.
13 4297, I support the Hughes amendment --
14 The Chairman. Votes aye.
15 Ms. Still. Mr. Rogers votes aye.
16 Mr. Dingell to Chairman Murphy.
17 The Chairman. Votes no.
18 Ms. Still. Mr. Dingell votes no.
19 Ms. Mikulski to Mr. Hughes --
20 Ms. Mikulski. I have already voted.
21 Ms. Still. I am sorry; she has already voted.
22 Mr. Evan. Mr. Chairman, when would you like me to read the
23 proxies
24 The Chairman. Well, the proxies are usually lodged with
25 the Clerk.

1 Ms. Still. Mr. Ashley to Mr. Evans.

2 Mr. Evans. Votes aye.

3 Ms. Still. Mr. Ashley votes aye.

4 Mr. Dornan to Mr. Evans.

5 Mr. Evans. Votes aye.

6 Ms. Still. Mr. Dornan votes aye.

7 That is all I have, Mr. Chairman.

8 The Chairman. The Clerk will announce the vote.

9 Ms. Still. 22 for and 13 against.

10 The Chairman. This vote by roll call, the "ayes" are 22
11 and the "nays" are 13; and the substitute is agreed to.

12 The question now is on the amendment, as substituted.

13 Those in favor, signify by saying "aye."

14 (Chorus of "aye.")

15 The Chairman. No?

16 (Chorus of "no.")

17 The Chairman. The "ayes" have it and the motion is
18 agreed to.

19 Mr. Young. Mr. Chairman, I have an amendment.

20 The Chairman. The Clerk will report the amendment.

21 Mr. Young. Mr. Chairman, I apologize. It is not for this
22 bill.

23 The Chairman. Are there other amendments?

24 Mr. Breauux?

25 Mr. Breauux. I move adoption of the bill, H. R. 4297, as

1 reported by the Subcommittee, and ask unanimous consent that
2 the staff have the opportunity to make the technical and con-
3 forming changes.

4 The Chairman. The motion is to pass H. R. 4297, as
5 amended, with the staff making the technical and conforming
6 changes.

7 Those in favor, signify by saying "aye."

8 (Chorus of "aye.")

9 The Chairman. Opposed, "no."

10 (No response.)

11 The Chairman. The "ayes" have it, and the bill is
12 reported.

13 The Chair recognizes the gentleman from California, Mr.
14 Leggett.

15 Mr. Leggett. Mr. Chairman, I call up H. R. 4740. I
16 believe everybody has their folders before them.

17 This is legislation that would extend the Marine Mammal
18 Protection Act for one additional year.

19 The authorization would authorize the appropriation of
20 \$1.8 million to the Department of the Interior, \$11.5 million
21 to the Department of Commerce, and \$2 million for the Marine
22 Mammal Commission.

23 In addition, the bill would increase from \$2 million to
24 \$8 million the amount of funds authorized to be appropriated
25 for the Secretary of Commerce, to carry out its functions under

1 the Act for fiscal year 1977.

2 This additional money is vitally needed if we are ever
3 going to establish a 100 percent observer program and solve the
4 tuna-porpoise controversy.

5 The Subcommittee intends to report this out with two
6 amendments.

7 The amendments will provide additional funding to the
8 Department of Commerce that would cover the costs of a dedicated
9 research vessel; and it also strikes the requirement in Section
10 207 that the Marine Mammal Commission spend two-thirds of its
11 funds on research.

12 If there is no further debate, let us see, Mr. Young, I
13 believe, has an amendment.

14 Mr. Young. Mr. Chairman?

15 The Chairman. The gentleman from Alaska.

16 Mr. Young. I have an amendment to H. R. 4740.

17 The Chairman. The Clerk will report the amendment.

18 Ms. Still. Page 2, line 6:

19 Strike "\$1,100,000" and insert in lieu thereof, page 2,
20 between lines 8 and 9:

21 (3) \$200,000, all of which shall be available to the
22 Secretary of Commerce, for the fiscal year ending September 30,
23 1978.

24 Page 2, line 22:

25 Strike "\$700,000" and add in lieu thereof "\$850,000."

1 The Chairman. The gentleman from Alaska is recognized for
2 five minutes.

3 Mr. Young. Mr. Chairman, these amendments are designed
4 to accomplish one of the fundamental purposes of the Marine
5 Mammal Protection Act.

6 When the Act was passed by Congress, it was understood
7 that those states which were able to develop sound management
8 plans that adequately protected marine mammals would be allowed
9 to regain management control over those mammal species.

10 To assist in this process, the Act allowed the Secretaries
11 of Commerce and the Interior to give matching grants to states
12 for the development of management plans, and research grants
13 to better understand the ecology of marine mammals.

14 We have reached the point where two states, Alaska and
15 California, are ready to undertake such research. In addition,
16 alaska is regaining control of nine species of mammals and
17 has requested matching grants for management plan development.

18 Unfortunately, the moneys for these grants have not been
19 included in the authorization figures supplied by the Depart-
20 ments of Commerce and the Interior.

21 Mr. Chairman, I have asked that \$300,000 be added to the
22 authorization request under Section 110, to be divided between
23 the Departments of Commerce and the Interior.

24 I have also asked that \$150,000 be added to the authoriza-
25 tion request for Section 114 for the Department of the Interior

1 I want to make it clear that this money would be used to ful-
2 fill requests for Section 109 grants for management plans. These
3 figures have been supplied by the interested states and the
4 Departments involved and should fully cover all projected
5 expenses under these two sections.

6 Mr. Chairman, and my colleagues, I ask all of you to join
7 me in passing this amendment so that we can return management
8 control to the states, as was anticipated by the authors of the
9 Act.

10 Mr. Leggett. Mr. Leggett. I have looked at the amend-
11 ments; I have talked to Mr. Young about it; it is my understand-
12 ing that all these funds will in fact be matching, with state
13 efforts, either by statute or in fact, and they are a burden,
14 perhaps forming better administration in some of these cases
15 where we are relinquishing; and for that reason, I have no
16 objection; and I support the amendment.

17 Mr. Thornton. Mr. Chairman, there is some problem in the
18 language in the gentleman's amendment in that it may be
19 interpreted to reduce the funding to the Department of the
20 Interior under Section 110 by \$200,000.

21 Since the amendment has been written in language that says
22 \$200,000, all of which shall be available to the Secretary of
23 Commerce, the attention of the amendment is to specifically
24 fund \$200,000 to the Secretary of Commerce to make technical
25 changes to conform to that.

1 Mr. Young. That is the intention.

2 I know we were in consultation with counsel.

3 Mr. Leggett. I would ask unanimous consent that counsel
4 be given latitude to make technical and conforming changes
5 to this amendment.

6 The Chairman. Is there objection?

7 The Chair hears none.

8 Mr. Leggett. I would like to ask one question.

9 Under Section 207(3) of the bill, we authorized for the
10 next five fiscal years such sums as may be necessary to carry
11 out this title of the bill but in no case more than \$1 million
12 for 1978, and for fiscal year ending '78, and for the fiscal
13 year ending '78, shall not exceed \$1 million -- '78, shall not
14 exceed \$2 million; is that --

15 Mr. Thornton. This language is drafted by legislative
16 counsel's office and it states the language after it was
17 passed in 1972.

18 The beginning language --

19 Mr. Leggett. This is the same authorization that we had
20 in the previous section; is that right?

21 Mr. Thornton. That is correct.

22 Mr. Leggett. And in the previous section, we limit the
23 amount to \$1.2 million with this amendment?

24 Mr. Thornton. Are you referring to Section 207?

25 Mr. Mannina. Mr. Chairman?

1 Mr. Leggett. What does 207 relate to?

2 Mr. Mannina. It relates to the Marine Mammal Commission.

3 H. R. 4740 is drafted in such a manner that it completely
4 tracks the existing language so that people reviewing the
5 statute could determine what had been appropriated or
6 authorized previously and would have been had by the Committee.

7 The purpose of the draft in Section 207 is to indicate
8 what has gone on before and in the last clause, to add to the
9 fiscal '78.

10 Mr. Leggett. Well, the effect of that section is to allow
11 for appropriations not to exceed \$1 million for other than 1978,
12 to limit the appropriations for \$2 million to the Commission for
13 1978.

14 Mr. Mannina. Yes, sir.

15 Mr. Leggett. And the reason for allowing the higher 1978
16 and later years is what?

17 Mr. Mannina. The Marine Mammal Commission has submitted
18 further requests, enlisting of research projects which will be
19 undertaken to hire authorization for funding.

20 In response to that, the Subcommittee did increase the
21 authorization, unless you are questioning the two-thirds/one-
22 third split, Mr. Leggett.

23 Mr. Leggett. What I am wondering about is, under the sec-
24 tion that says that sums appropriated for any fiscal year other
25 than 1978 shall not exceed \$1 million, and the sum appropriated

1 for 1978 shall not exceed \$2 million.

2 Now, why did we allow '78, \$2 million, and '79, '80 and
3 '81 --

4 Mr. Thornton. No, five years is five years from the time
5 of enactment, referring to the enactment of the original Act.

6 \$2 million is to the one-year extension.

7 Mr. Leggett. All right.

8 And this does track --

9 Mr. Mannina. Yes; the existing law says they are
10 authorized to be appropriated into the next four years; and we
11 just track that by adding five.

12 Mr. Leggett. All right.

13 I am glad we have that straight, Mr. Chairman.

14 I am sorry for the confusion. I believe we are ready for
15 a vote on the amendment, Mr. Young's amendment.

16 The Chairman. Those in favor, signify by saying "aye."

17 (Chorus of "aye.")

18 The Chairman. Opposed, "no."

19 (Chorus of "no.")

20 The Chairman. And the "ayes" have it and the amendment is
21 agreed to.

22 Mr. Leggett. I would ask that the bill be reported by the
23 full Committee and with latitude to give counsel to make con-
24 forming and technical changes.

25 The Chairman. You have heard the motion of the gentleman

1 from California.

2 Those in favor, signify by saying "aye."

3 (Chorus of "aye.")

4 The Chairman. Opposed?

5 (No response.)

6 The Chairman. The "ayes" have it, and the bill is passed.

7 The gentleman from California.

8 Mr. Leggett. Mr. Chairman, I have one other bill; that
9 is, H. R. Res. 388.

10 This is a bill to draft with Mr. Forsythe and Mr. de la
11 Garza and Mr. Tribble and myself, a joint resolution to partially
12 reimburse certain United States distant water fishermen for
13 fishing fees imposed on them by foreign nations.

14 The Committee Print before you is slightly different than
15 the bill as originally introduced.

16 The reason for the legislation is quite simple. A 200-
17 mile Act inures to the detriment of America to foreign fisher-
18 men but -- we are collecting \$10 million and \$20 million in
19 license fees for foreign fishermen fishing off our shores this
20 year.

21 However, we have had to yield to the jurisdiction of
22 foreign countries with respect to the service of their juris-
23 dictions in certain areas, particularly with respect to shrimp;
24 the past two-thirds of our foreign shrimp fishing licenses have
25 been picked up by the United States; the cost of that has been

1 approximately several hundred-thousand dollars; we have had to
2 yield to an exercise of jurisdiction by the Republic of Mexico,
3 which has charge of approximately \$2,000, for some 18 permits,
4 total amount of \$633,000, with other charges made for groupers,
5 snappers, et cetera; total charges made on the American fishery
6 which are new this year, will approximate \$828,000.

7 These were made by negotiated agreements by the State
8 Department in action which colleague de la Garza objects to
9 very much, but inevitably something like this had to be
10 negotiated.

11 This legislation would allow for two-thirds of that to be
12 recovered by the fishermen from the Treasury under this legis-
13 lation and would provide a benefit of approximately \$515,000.

14 The legislation also covers those situations where we do
15 not negotiate for license fees but where the license fees are
16 in fact charged, where the license action may be in accord with
17 international law or may not be.

18 It may be recognized by the State Department or it may not
19 be. It may be unreasonable or it may not be. It may be
20 arbitrary and capricious or it may not be; and in this case,
21 particularly in the tuna industry, we thought that we were
22 going to extend this provision to allow for recoupment of a
23 portion of the fees which are determined to be reasonable by
24 the National Marine Fisheries Service and, in this respect, we
25 did intend that some latitude be given; we recognize that the

1 Fishermens Protective Act is still the law of the land and
2 does provide that where fishermen fish in foreign waters, under
3 circumstances where they choose not to buy a license and where
4 they are confiscated and seized, that a large number of pro-
5 visions come into play, providing for reimbursement of the
6 American tuna fleet; it has accounted for a drain on the
7 American Treasury to date of approximately \$3 million.

8 It is possible that this legislation would in fact save
9 money, with respect to the tuna fleet in that it would give
10 an option to the tuna fisherman to either pay or not pay the
11 license fee and it would allow for the provisions of this
12 bill to come into play, which would allow for recoument of
13 a partial amount of the license fee rather than total re-
14 imbursement of losses experienced under the Fishermen's Pro-
15 tective Act.

16 The bill is drafted in such form as it covers a partial
17 reimbrusement of negotiated license fees and a partial reim-
18 bursement for license fees which are paid and are determined
19 to be reasonable, and the expected expenditures for tuna under
20 this Act would be something less than \$1 million a year.

21 The expected charges, reimbursement for shrimp, would be
22 something less than \$1 million a year, and I think that this
23 action was promised to the industry at the time we extended the
24 200-mile fishing law. We did have a cookie jar arrangement in
25 the original legislation to allow for the charging of license

1 fees to foreigners, putting the fund in a separate trust fund
2 and then using it to assist American fishermen in maintaining
3 this tremendous foreign fishery that we have.

4 I would point out that essentially all of the American
5 yellowfin tuna industry is fished off of foreign shores. We
6 have license fees which recently came into play affecting the
7 American tuna industry, \$60 with respect to Brazil, per ton for
8 the -- not Brazil; Ecuador -- for the privilege of searching
9 for tuna; \$80 with respect to the country of Peru for the
10 privilege of searching for tuna in those areas. This would
11 account for license fees which might be accumulated totaling
12 approximately \$150,000 per boat for one 100-day excursion for
13 tuna.

14 We think this is unreasonable; we think that the industry
15 probably would not knuckle under to these kinds of license fees
16 which are two to three times charged last year and as a result
17 we do want to provide some kind of mechanism to allow for some
18 kind of subsidy, perhaps avoid unnecessary seizures and confis-
19 cations and potential loss of life and injury to limb.

20 Basically, that is the reasons for the legislation.

21 The bill did pass unanimously out of the Subcommittee in
22 its present form.

23 Mr. Ruppe. Mr. Chairman, I am somewhat reluctant, because
24 of my colleague's strong case, really am, to oppose the bill. I
25 have a difficulty understanding why we should pay the license

1 fees for an industry operating in a foreign country or in
2 foreign waters.

3 It seems if we start paying a portion or, in this case,
4 two-thirds of the licensing fees, those countries are simply
5 going to raise the fees. They are going to continually raise
6 them because they know that the United States Government is
7 going to be paying most of the moneys and I think it is a very
8 self-defeating piece of legislation for that.

9 Also, we have a listing of the cost of these licensing
10 charges extended against the companies, but we have no indica-
11 tion here of the gross income of the tuna industry or the
12 shrimp industry.

13 We have no indication of what these license fees are as
14 a percentage of the gross income of those respected industries.

15 Likewise, we do not have an indication of the cost
16 incurred by these industries and what percentage again these
17 fees are to the overall costs. So it seems to me we are
18 extending a very specialized subsidy for no particular reason
19 that I can -- no merit; I see no merit in extending the fees.

20 Mr. Breaux. Will the gentleman yield?

21 Mr. Ruppe. Not yet.

22 I see no reason to subsidize the industry.

23 We also get into the discussion of a protective act. It
24 seems on the one hand we want the protective zone for the
25 United States and on the other hand we are going to encourage

1 or assist any fishermen caught in the 200-mile zone. Granted,
2 we love to apply toe 200-mile fishery zone to our own domestic
3 fisheries and we look at the other guy's 200-mile zone as a
4 place that we ought to be able to chase the migratory tuna; but
5 I do not think we can protect the fishery here and protect the
6 fishermen who are caught by somebody else.

7 For that reason, for the reason we do not know to what
8 extent the licensing fee plays a major role in the profitability
9 or non-profitability of these respective industries; and because
10 of the American government's payment of two-thirds of our fee,
11 is simply going to encourage these countries to raise the fee,
12 I would have to say that I most reluctantly oppose the legisla-
13 tion.

14 Mr. Leggett. If the gentleman would allow me to recapture
15 some of my time.

16 The Chairman. The time of the gentleman from California
17 has expired.

18 The gentleman from Michigan.

19 Mr. Ruppe. I yield to the gentleman from California since
20 I walked off with some of his time.

21 Mr. Leggett. We did elicit at the hearings that in fact
22 it cost on the order of \$1.7 million to operate a tuna boat on
23 a cruise.

24 We discussed that in relation to the previous bill. We did
25 also get some evidence that a good, hard-working tuna boat can

1 pick up 4,000 tons of tuna, that they sell at \$600 a ton to a
2 cannery in the United States.

3 Mr. Mannina. It is \$665. It comes to \$2.2 million.

4 Mr. Leggett. All right.

5 And obviously a license fee of \$150,000 or \$170,000
6 impacts rather heavily on a net which necessarily must involve
7 depreciation of other items other than strictly the --

8 Mr. Ruppe. If I have any time left, or I will recapture
9 mine.

10 It would appear that the license, we are helping them out
11 to the tune of a couple million dollars. The gross catch is
12 about 140 boats out and they catch \$1,700,000 worth of tuna.
13 The catch value is well over \$220 million, and I just would say
14 that in that kind of a bind they ought to be well prepared to
15 pay the licensing fees, which are about one percent of that
16 boat.

17 I just do not see why we should take one expense item from
18 one single industry and say the tuna guys are any better than
19 the farmer selling abroad, or anybody else that is marketing
20 abroad. You know, I do not see the merit in this, one special-
21 ized industry to this particular situation.

22 I yield back --

23 The Chairman. The gentleman from California, Mr. McCloskey.
24 Mr. McCloskey. I am kind of appalled by this.

25 If the gentleman from California will answer one question

1 for me:

2 The full Committee has reported out a bill to pay our tuna
3 fishermen who are seized within the 200-mile limit of another
4 country because we do not recognize those countries' rights to
5 claim the right to insist on license fees within their 200-mile
6 zone for tuna.

7 This bill would in effect recognize their right to a 200-
8 mile zone and then we would have to pay the two-thirds of it.

9 It seems to me the two bills are simply inconsistent and
10 would be laughed off the House --

11 The Chairman. May I ask counsel to comment on this? On
12 these seizures, are they because they are fishing out of season?

13 What are the reasons for these seizures?

14 Mr. Everett. Mr. Chairman, prior to the extension of the
15 200-mile fishing Act to 200 miles of this year, we did not
16 recognize the rights of any one country to regulate any fishery
17 between 12 miles. Then when we extended our fishery zone out to
18 200 miles off the shores of the United States, we particularly
19 excluded tuna from the coverage of that legislation because of
20 the migratory species; they are born on the high seas and they
21 migrate on the high seas and it is the contention of the
22 United States Government that those species should be regulated
23 by international convention only and not by any coastal nation.

24 So this is consistent, really, with the Act, the 200-mile
25 fishing Act just recently passed by the Congress.

1 Mr. McCloskey. But it is not consistent with the bill the
2 full Committee just reported out to pay for the seizures. By
3 paying for the seizures, we are adhering to the policy that
4 Peru and Ecuador cannot issue license fees and do not have the
5 right to issue licenses out to 200 miles.

6 By this bill, we not only recognize the right to a 200-
7 mile plan and ask for licenses, but we are going to pay for
8 two-thirds of it.

9 Now, you tell me, counsel; how is that consistent?

10 Mr. Leggett. The thing is --

11 Mr. McCloskey. If any lawyer can explain to me how it is
12 consistent to recognize that they do not have a right to claim
13 200 miles and then say we are going to pay for the licenses that
14 they issue within 200 miles, how can it be consistent?

15 Either they can issue licenses or they cannot.

16 Mr. Leggett. I know the gentleman has been very confused
17 on this and the gentleman repealed the protective Act and it
18 so happens that the exercise of jurisdiction by South American
19 countries is not exactly like the exercise of jurisdiction by
20 the United States.

21 Number one, they are exercising the right over a highly
22 migratory species which we do not necessarily recognize.

23 Secondly, they are exercising the right of territorial
24 jurisdiction many times.

25 Number three, many times they are extracting an exorbitant

1 Number four, many times they are putting limitations which
2 are not based on optimum sustainable yield, et cetera. So the
3 actions that are taken in a form ultra vires and as a result
4 we do have the situation where the State Department does not
5 want to recommend that we send the U. S. Navy down to those
6 waters to protect our fishing boats.

7 Secondly, we do have a law on the books providing for full
8 reimbursement where actions are taken which are tantamount to
9 confiscation and seizures; and we have to recognize that some
10 boats voluntarily last year did pay a license fee and that did
11 avoid seizures last year.

12 Now, the State Department did not approve the payment of
13 those license fees. This year it may well be that the tuna
14 boats going out will find it impossible to pay these very high
15 confiscatory license fees.

16 All we are addressing in this legislation is some kind of
17 an ameliorative action and it is necessary, temporary in nature,
18 until we can determine, number one, what license fees will be
19 charged and which are reasonable by most of the nations of the
20 world.

21 But I think that if we can agree on a three and a half per-
22 cent --

23 Mr. McCloskey. Would the gentleman yield back my time?

24 If then we are going to pay for a portion of their licenses,
25 we are recognizing their right to charge any license out to 200

1 miles and it is precisely our unwillingness to permit them to
2 license out to 200 miles that caused us to report to the full
3 House a renewal of the Fishermen's Protective Act.

4 Mr. Leggett. The thing is, what we are doing here is
5 exactly what we have been doing for the past several years
6 under the Brazilian Agreement. We specifically stated that we
7 were not recognizing the territorial jurisdiction of the
8 country of Brazil.

9 As a result, the Federal government was picking up two-
10 thirds of the fees; the fishermen were picking up one-third
11 and, by the payment of that license fee over the past several
12 years, added nothing or detracted nothing from the right of
13 the country of Brazil, that did allow for fisheries to per-
14 serevere. All we want to do at the present time is to allow
15 the fishery to perserve off of Brazil and Mexico and not have
16 the 200-mile limit law work precisely to their detriment, as
17 we indicated that it would not.

18 Mr. McCloskey. Mr. Chairman, I would like to make this
19 final point, and then I will yield my time.

20 Both State and Commerce testified against this bill and I
21 will accept and endorse the Chairman's position made much
22 earlier when this Committee convened, that it is true that
23 Congress perhaps posed a great duty to the foreign affairs, but
24 I submit that to report to the full House one bill that urges
25 that we do not recognize the 200-mile claim as the tuna, by these

1 foreign countries, for the reasons that the gentleman from
2 California has stated, and on the other hand report out the
3 bill that if countries licensed within 200 miles, our government
4 will pay two-thirds of that, it adds to the difficulty that I
5 had with the provision in the maritime authorization bill, that
6 when we were subsidizing all increases of seamen's wages, it
7 looks like this Committee is permitting the U. S. government
8 that whatever labor and management may negotiate for a wage for
9 seamen -- the same argument is going to be made here, that the
10 gentleman from Michigan has made, that by this kind of action
11 we are in effect putting an open end on whatever any foreign
12 country wants to charge us in the way of license fees, because
13 the U. S. government, by law, would be required to pay two-
14 thirds of it; that at the very least, Mr. Chairman, I think we
15 ought to defer this action until after the Friday session when
16 the Committee takes up the basic real problem of the tuna
17 industry, which is the Marine Mammal Protection.

18 It seems to me to push this legislation out of -- and then
19 consider the third piece of the tuna-porpoise foreign-nations
20 puzzle in full Committee session, is unwise; that we should
21 defer this.

22 Mr. Breaux. I as one member of this Committee have become
23 pretty frustrated of our efforts in helping the fishing industry,
24 saying that we are for the American fishing industry; that we
25 want to do everything that we can to help them, but when it

1 comes to putting money on the line, to helping them, we
2 drastically fall short of our high-sounding goals between the
3 House and Senate.

4 Gentlemen, we helped foreign fishing industries with tax
5 dollars far more than we are helping our American fishermen.
6 Half of the competition that is killing shrimp in America is
7 through out Export-Import Bank to finance shipping vessels and
8 foreign shrimp vessels and financing shrimp processing plants.

9 We are making more of a contribution, monetarily, to
10 foreign operators.

11 Here is a simple piece of legislation that says we are
12 going to help out. We are going to pay part of your license
13 fees which are going to be required as a result of something
14 which we did.

15 It is a subsidy.

16 Of course it is a subsidy. But we subsidized foreign
17 fishermen who are in direct competition and nobody gets too
18 excited about that. But when we come up with a piece of
19 legislation helping partially all people to meet the require-
20 ments that we impose upon them, everybody gets cold feet. I
21 do not know; the gentleman from California makes a good point.
22 We are just going to raise our licensing fees and we are going
23 to end up paying for it.

24 I think the legislation has a section in it that says the
25 Secretary of Commerce will approve reasonable charges. If it is

1 unreasonable, she has the authority to say we are not going to
2 contribute. So I think protection on that point is included
3 in the legislation.

4 I agree with the gentleman from California when he says we
5 should be consistent; we should not pass bills that perhaps have
6 some inconsistencies in them.

7 I am just arguing about the merits, about this bill; and
8 the shrimp industry in America -- I am not talking about the
9 tuna industry, but the shrimp industry -- has not been helped
10 one bit by the 200-mile limit. They are going to be kicked out
11 of the Mexican waters; they are going to be kicked out of the
12 Brazilian waters; and they are not helped at all.

13 This would be a little bit realistic substance beyond the
14 magic words that we pass in the Congress as far as helping our
15 own American shrimpers as much as we help the foreign shrimpers.

16 Mr. McCloskey. I think if we squarely address the problems
17 of our fishermen and how to assist them and how to adopt a
18 comprehensive policy that our distant-water fishermen are helped,
19 that is one thing. I would not object to a comprehensive
20 decision as to what we want fish species to be and to what extent
21 we want to serve these industries.

22 I object to this intervention, particularly now with the
23 Law of the Sea Conventions. We have taken great length to
24 defer, to consider the ocean mining to try to coordinate with
25 the Administration.

1 The Administration opposes this bill and clearly this bill
2 as one piece only confuses the problem.

3 If this Committee moves to that, they would get my whole-
4 hearted support.

5 Mr. Leggett. Do I understand the gentleman does not
6 object to the non-tuna provisions?

7 Mr. McCloskey. I did not object to any well-considered
8 considerations of this Committee which would assist the shrimp
9 and tuna industries. We miss the gentleman from New Jersey,
10 Mr. Forsythe.

11 Mr. Leggett. I really do.

12 Mr. McCloskey. Probably lying in his hospital bed twitch-
13 ing with the anxiety to get back and help.

14 I regret I was not here when this was considered in the
15 Subcommittee. I just plead for more consideration before we
16 address this issue. I think the point of the gentleman from
17 Louisiana is well taken, that we can consider assistance to
18 both of these industries, but it ought to be done comprehensive-
19 ly rather than piecemeal.

20 The Chairman. Would the gentleman yield?

21 Will the counsel point out the historical problems on
22 seizures going back to 1961 and the problems that really are
23 at the base of this legislation, how this Committee went through
24 the Pelly Amendments to try to resolve the problems in the
25 tuna areas and just why it is necessary?

1 Mr. Everett. As you recall, Mr. Chairman, back in the '60's
2 there was a rash of seizures by Ecuador and Peru, but the Act
3 itself dates back to 1954, under which we have paid over \$8
4 million to foreign countries, which is the costs resulting from
5 illegal seizures of mostly tuna vessels by Ecuador and Peru.

6 This has escalated over the years and then in 1975, there
7 were about 44 seizures by Ecuador mostly and there have not been
8 any seizures since that time and the problem is that to get
9 reimbursed for the license fee that this legislation now is
10 providing for partial reimbursement for, it subjects the vessel
11 owner being seized and they have a fear of being beaten up and
12 put in prison, which this took place back in 1975, when there
13 were a rash of seizures.

14 So this is consistent in a way with the practice that takes
15 place now because we do provide 100 percent reimbursement for
16 the license fee as required to be paid when the vessel is to
17 be seized.

18 This legislation is consistent to the extent that -- well,
19 even though we do not recognize the right of any country to
20 regulate tuna, we will provide up to two-thirds of the cost
21 of any reasonable fee that is charged by the offending country.

22 Mr. Leggett. I might state, Mr. Chairman, that we do not
23 think that \$60.00 is a reasonable fee. We do not think that
24 \$80.00 is a reasonable fee. We thought that maybe they might
25 determine that \$40.00 is a reasonable fee and we would be

1 contributing a portion of that.

2 To go into all of the economics of exactly which fisher-
3 men, how much they make, what their net is, and the gross, I
4 think, misses the point somewhat.

5 Obviously, if fishermen can fish, as they can in shrimp,
6 off of domestic shores or foreign shores, and they have a big
7 charge off of foreign shores, they are going to fish domestic-
8 ally, and that is going to cause a crowding on the coast of the
9 United States; and our effort is to try to keep the foreign
10 fleets going and enhance wherever we can, because we think that
11 is advantageous.

12 Now, maybe somebody else has some other ideas on how we
13 can continue to encourage this industry without causing a big
14 piling up domestically.

15 We do know that under the Mexican agreement just by its
16 terms, over the next three years, the number of boats allowed
17 to fish in Mexico will be reduced from a level of from 200 to 300,
18 down to approximately 95 boats and so regardless of this legis-
19 lation, just by quotas, there is going to be severe restriction.

20 Mr. McCloskey. That is exactly what we are going to do
21 with the Soviets and Koreans and anybody else that fishes in
22 our waters, where we feel that our species are being hurt.

23 We intend to reduce progressively the historic fishing of
24 foreign nations. That is precisely why we passed the 200-mile
25 zone. We claim a right that we want to deny to others.

1 The Mexicans and Peruvians want to reduce the number of
2 boats; that is precisely what we are claiming with respect to
3 the Soviets and Japanese.

4 Mr. Leggett. We only cut down the Soviets and Japanese by
5 11 percent, and it really does not look like we are going to
6 be cutting down on their capability much more than that unless
7 we have a real miracle breakthrough here in the United States.

8 But that is not true, really, with the foreigners. Their
9 fees are confiscatory. They are much greater than ours. Plus
10 the fact you are confusing the issue a little bit.

11 We get the checks for our license fees from the foreign
12 governments. You can bet your tintype that the Soviet Union
13 itself is paying the license fee; the Mexican government subsi-
14 dizes the oil and gas of their fishermen who fish in our waters
15 for shrimp and their rate is something like 12 cents per gallon,
16 where our fishermen have to pay 45 cents.

17 All we are trying to do is not give anybody a windfall but
18 to keep the parties in roughly the same place and the same
19 position that they were in prior to the enactment of the 200-
20 mile law. We represented that we were going to try to do that.

21 I know the gentleman has represented that he wants to help
22 all of the fishing industries; and I see your amendments from
23 time to time try to do that.

24 If the gentleman has better amendments and more comprehen-
25 sive amendments and perhaps better thought-through provisions,

1 I would be glad to not call this matter up for a vote and we
2 can suspend this for a week or so and see if perhaps we can
3 develop a competent position.

4 I think we all ought to fully understand the situation.
5 The tuna industry is stickly.

6 Mr. McCloskey. Would the gentleman yield on that one
7 point? Because that makes sense to me.

8 As the gentleman knows, I have opposed the amendment of the
9 Fishermen's Protective Act, but I see real difficulty in going
10 to the Floor of the House with two amendments.

11 Should not we try to consolidate this by decision of the
12 full Committee, rather than go to two Acts -- to two amendments
13 to the same Act?

14 It seems to me with all the furor over the whole tuna ques-
15 tion that perhaps we are better off going to the House with a
16 single, considered position.

17 Mr. Leggett. Well, I think we are arguing about perhaps
18 two different things; but, on the other hand, with a lean
19 committee here today and with the tremendous credibility that
20 our legislation has had on the Floor of the House in the past,
21 I do not want to jeopardize that in the future, and without
22 objection, Mr. Chairman --

23 The Chairman. I would like to say this to both gentlemen
24 from California:

25 We have a 15th of May deadline that all Subcommittee

1 Chairmen and ranking minority members were instructed to have
2 everything done. We laid this day as the last day that we
3 would be in that process of marking up; and we have met that
4 deadline and that gives us two days in which to resolve this
5 situation; and we are going to do it in these two days.

6 Mr. McCloskey. Mr. Chairman, I will be glad to cooperate
7 and perhaps when we convene Friday, to consider the other
8 matters; we could take ten minutes to see if the gentleman and
9 I could -- or anyone else -- could work out a compromise.

10 The Chairman. I would appreciate it if the two gentlemen
11 get together; and we will try to take this up.

12 Mr. McCloskey. We once agreed on something.

13 Mr. Breaux. Once.

14 The Chairman. The Committee will stand adjourned until
15 Friday.

16 (Whereupon, at 12:40 p.m., the Committee adjourned, to re-
17 convene Friday, May 13, 1977.)

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